WP(C) 5399/2007
BEFORE
HON'BLR MR JUSTICE AMITAVA ROY

Heard Mr Sk. Noor Mahmmad, learned counsel for the petitioner. Also heard Mr MK Choudhury, learned Senior Standing counsel , Education department.

In view of the issue involved and the relief prayed for, I propose to dispose of this petition at the motion stage.

The petitioner, who at the relevant time was the Deputy Inspector of Schools, Nalbari, was by notification dated 24.8.2006 issued by the Secretary ,Education E & S Department , Govt. Assam placed under suspension acting on the materials collected in course of the preliminary enquiry pertaining to alleged illegal and irregular appointments as well as transfers in respect of Middle and LP schools of the Nalbari District. On an FIR lodged involving the petitioner and others, a criminal case was also registered with the Nalbari police station. A departmental proceeding in the meantime has been initiated against the petitioner to which he has submitted his reply denying the charges. Being aggrieved by the order of suspension, the petitioner has also submitted a departmental appeal before the Commissioner and Secretary to the Govt.of Assam(Elementary) Education Department , Assam which,

according to him remains unattended till date. He is scheduled to retire on 30.11.2007.

In the above factual premise, Mr Noor Mahmmad has urged that this is a fit case where in view of the impending retirement of the petitioner and the nature of the allegations, the order of suspension may be interfered with and a direction be issued for his reinstatement in service.

Mr Choudhury in reply has urged that bearing in mind the gravity of the charge and the stage of the departmental proceeding, no relief as prayed for ought to be granted. As the departmental appeal of the petitioner against the order of suspension is pending, the matter may be remitted to the appellate authority for doing the needful if necessary, within a time frame work as may be deemed fit by this Court.

Upon hearing the learned counsel for the parties and on a consideration of the pleaded facts, I am of the view that the course as suggested by the learned counsel for the respondents is reasonable and logical. Though the petitioner is going to retire on 30.11.2007, as admittedly, a criminal case is pending on the same charge and the departmental proceeding has made some progress, I am presently not inclined to interfere with the order of suspension. However, as the appeal by the petitioner is pending before the aforementioned authority , it is obliged to take an appropriate decision thereon. Ordered accordingly.

It is made clear that in doing so, the said authority would not stand influenced by the observations made hereinabove . Keeping in mind that the petitioner's superannuation is drawing near , it is ordered that the appeal be disposed of within two weeks from the date of receipt of the certified copy of this order. The departmental proceeding should also be expedited to be completed if possible , before the petitioner's retirement.

The petition stands disposed in the above terms. No costs.